

REMARKS

This responds to the Office Action mailed on April 9, 2009.

Claims 1, 5-8, 16-22, 24, 27, 92, 116, and 137 are amended; claims 28-50, 52-59, 71-91, 93-115, and 117-136 were previously canceled; no additional claims are canceled; and claim 140 is added; as a result, claims 1-27, 51 60-70, 92, 116, and 137-140 are now pending in this application.

New Claims

Claim 140 is new. Support for the new claim may be found in the specification, such as at ¶ 0070 of the published application. Applicant respectfully submits that no new matter has been introduced in the added claim. Additionally, Applicant respectfully submits that the new claims are patentably distinct over the references currently cited as a basis of rejection, for the reasons discussed below with respect to claim 1. Accordingly, Applicant respectfully requests that the Examiner consider and allow the newly added claim.

Claim Objections

Claims 1-27, 51, 70, 92, 116 and 137-139 were objected to for usage of the functional language “configured to”. Applicant has amended claims 1, 5-8, 24, 27, 92, 116, and 137 to recite “including program instructions to” in place of “configured to.” Although Applicant respectfully submits that “configured to” is appropriate in this context to indicate that a respective facility, which may include a machine, computer, mechanism, or other device (or plurality of devices) is specifically adapted, changed, altered, or otherwise modified to perform the functions recited in these claims, Applicant has revised these claims to in hopes of satisfying the Examiner and expediting prosecution. Thus, Applicant respectfully requests reconsideration and withdrawal of the objections to these claims.

§ 103 Rejection of the Claims

Claims 1-27, 51, 70, 92, 116 and 137-139 were rejected under 35 U.S.C. § 103(a) as being obvious over O'Neal (U.S. Publication No. 2004/0062370) in view of Underwood (U.S. Patent No. 7,100,195). Applicant respectfully traverses these rejections.

Regarding independent claim 1:

In particular, with respect to claim 1, Applicant cannot find in the cited portions of O'Neal or Underwood any disclosure of "an authentication facility operable within said access controlled environment and configured to determine the authenticity of said transaction data based on an authentication scheme corresponding to said transaction," as recited in claim 1.

The present Office Action admits that O'Neal does not disclose this limitation (Office Action of April 4, 2009 at p. 3) and introduces Underwood to purportedly provide this teaching. However, a review reveals that Underwood is deficient and does not in fact teach this claim limitation.

In general, Underwood appears to refer to the management of user information, such as preferences, roles, and details related to users. Underwood at Abstract. A user's identity is authenticated to obtain access to the server and database. *Id.* For example, as provided in column 2 of Underwood, "the identity of the user may be authenticated by verifying a user name and password, a secure sockets layer (SSL) certificate, and/or a log-in form."

In contrast, claim 1 recites "an authentication facility ... to determine the authenticity of said transaction data." In the context of claim 1, determining the authenticity of transaction data refers to verifying (or authenticating) the authenticity, source, veracity, or origin of data. As an example, in Underwood a user name may be paired with a password and when each is provided by a person attempting to access the system, the user name and password are analyzed to ensure that the pair correspond. However, neither the user name nor password in Underwood are analyzed to ensure their authenticity or veracity. New claim 140 is an example of one type of data that may be checked for its authenticity – in this case, a document.

Thus, because the cited portions of O'Neal and/or Underwood fail to disclose or describe authenticating transaction data as recited and claimed in claim 1, Applicant respectfully submits

that the Office Action has failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103. As such, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Independent claims 27, 51, 70, 92, and 116 recite similar authentication facilities or methodologies as that of claim 1. As with claim 1, Applicant respectfully submits that the cited portions of O'Neal and/or Underwood fail to disclose or describe authenticating transaction data at all. Moreover, with respect to claim 27, because O'Neal fails to disclose authentication of transaction data, it necessarily follows that O'Neal fails to disclose "authenticat[ion of] said data related to said transaction based on a predetermined authentication level set to correspond to said transaction," as required by claim 27.

Applicant respectfully submits that these arguments apply, *mutatis mutandis*, with respect to claims 51, 70, 92, and 116.

Thus, because the cited portions of O'Neal fail to disclose or describe all of the elements in claims 27, 51, 70, 92, and 116, Applicant respectfully requests reconsideration and withdrawal of the basis of rejection of these claims.

Regarding dependent claims 2-27, 51, 70, 92, 116, and 137:

The Office Action stated that "As per claims 2-27, 51, 70, 92, 116 and 137-139, their limitations do not further limit the scope of the invention." Office Action of April 9, 2009 at p. 4. Applicant requests clarification because clearly claims 2-26, 138, and 139 depend from independent claim 1 and as such, further limit the scope of the invention by definition. In addition, claim 137 depends from independent claim 70 and inherently possesses the same attribute. Moreover, independent claims 27, 51, 70, 92, and 116 each define separate embodiments that are distinct from independent claim 1. These independent claims were not rejected with specificity. Applicant respectfully directs attention to the MPEP, which states: "Where a claim is refused for any reason relating to the merits thereof it should be 'rejected' and the ground of rejection fully and clearly stated." MPEP § 707.07(d) (emphasis added). Thus, Applicant respectfully requests a clearer statement of the rejection and the fair and full opportunity to respond to such rejection.

In the same section of the Office Action, the Examiner states that “their limitations are fully taught in O’Neal et al disclosure,” but fails to provide any citations or other explanatory text. As such, this appears to be paramount to taking Office Notice of all of the features of twenty-seven dependent claims and five independent claims. To the extent that the Examiner is taking official notice, Applicant respectfully objects and pursuant to M.P.E.P. § 2144.03, Applicant respectfully traverses the assertion of Official Notice and requests that the Examiner cite references in support of this position or provide an affidavit in support of such assertion. In general, Applicant respectfully requests a more articulated and specific action to be able to respond comprehensively.

Notwithstanding the vagueness of the rejection, Applicant relies upon the previously-provided grounds presented here and in the Response of January 16, 2009, to overcome the present rejections.

CONCLUSION


Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 371-2134 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

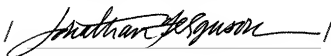
Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10th day of August, 2009.



Jonathan Ferguson